



Decision

Matter of: U.S. PolyCon Corporation--Reconsideration

File: B-254655.3

Date: August 3, 1994

Paul T. Phillips for the protester.
Mary G. Curcio, Esq., and John Van Schaik, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Request for reconsideration of decision dismissing protest
on the basis that protester is not an interested party is
denied where requesting party neither presents information
that was not considered and warrants reversal nor
demonstrates that decision is legally or factually
inaccurate.

DECISION

U.S. PolyCon Corporation requests that we reconsider our
decision, U.S. PolyCon Corp., B-254655.2, Feb. 22, 1994, in
which we dismissed the firm's protest that invitation for
bids (IFB) No. N62470-92-B-0651, issued by the Department of
the Navy for repairs to a steam distribution system located
at the Norfolk Naval Shipyard was unduly restrictive of
competition. We dismissed the protest because we found that
PolyCon was not an interested party to maintain it.

We deny the request for reconsideration.

As discussed in our prior decision, the solicitation was
issued for repairs to a steam distribution system, including
the replacement of an existing underground heat distribution
system (UHDS) with a new one. PolyCon, a supplier of
systems composed of nonmetallic conduit, protested the
requirement in the solicitation for a UHDS composed of steel
conduit. We dismissed PolyCon's protest because under the
Competition in Contracting Act of 1984 (CICA) and our Bid
Protest Regulations, our Office may only decide a protest
filed by an "interested party," which is defined as an
actual or prospective bidder or offeror whose direct
economic interest would be affected by the award of a

contract or the failure to award a contract. 31 U.S.C. § 3551(2) (1988); 4 C.F.R. § 21.0 (1994). As a prospective supplier or subcontractor, PolyCon did not have the requisite interest to be considered an interested party under CICA since it was not a prospective or actual offeror. See Allied Tube and Conduit, B-252371, Apr. 27, 1993, 93-1 CPD ¶ 345; PolyCon Corp., 64 Comp. Gen. 523 (1985), 85-1 CPD ¶ 567.

In requesting reconsideration, PolyCon notes that in a recent decision, Thermacor Process, Inc., B-254068, Nov. 16, 1993, 93-2 CPD ¶ 277, we considered a protest by Thermacor that a solicitation, which precluded the use of polyvinylchloride (PVC) pipe as an outer protective casing for underground heating and water lines, restricted competition. According to PolyCon, Thermacor is a competitor of PolyCon and a system supplier. PolyCon asserts that since we considered Thermacor's protest, we should also consider its protest.

In Thermacor Process, Inc., *supra*, Thermacor represented itself as a potential bidder under the protested solicitation. Neither the agency involved nor any other party alleged that Thermacor was other than a potential bidder and there was no other information in the record to indicate that Thermacor was not a potential bidder. In the absence of any indication that Thermacor was not a potential bidder, we considered Thermacor to be an interested party to challenge the specifications. PolyCon, however, was not a potential bidder under the protested solicitation. Rather, PolyCon was a potential supplier to the ultimate awardee. Thus, the cases are different and we properly dismissed PolyCon's protest.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show either that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a). Since PolyCon has not met this standard, we will not reconsider our decision.

The request for reconsideration is denied.

Ronald Berger
Associate General Counsel